

ADDUCCI, DORF, LEHNER, MITCHELL & BLANKENSHIP, P.C.

ATTORNEYS AT LAW

SUITE 2130

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7524

Michael C. Dorf
Direct Dial (312) 781-2806
E-Mail mdorf@adlmb.com

TELEPHONE (312) 781-2800

FACSIMILE (312) 781-2811

September 14, 2012

**BY E-MAIL
TO STATION AND SYSTEM MANAGERS**

Re: False Advertisement from American Action Network

Dear Station or System Manager:

This firm represents Friends of David Gill, the principal campaign committee of Dr. David Gill, the Democratic candidate for Congress for the 13th District of Illinois. I write with regard to an advertisement produced by the American Action Network ("AAN"). The text of the advertisement is attached.

This advertisement is false and misleading. For the sake of both FCC licensing requirements and the public interest, your station should immediately refuse to continue to air this advertisement.

While we find many parts of this advertisement objectionable, we would request that you focus on the advertisement's claim that "Gill would eliminate Medicare" with a citation to Dr. Gill's 2004 campaign website. Dr. Gill never made such a statement, nor does anything on his 2004 website back up AAN's claim. The Library of Congress has archived Dr. Gill's 2004 website and it is available for your review at: <http://webarchive.loc.gov/lcwa0016/20041101064609/http://www.davidgillforcongress.com/default.htm>. Under no interpretation of the website can AAN's false and malicious claim be found. In fact, Dr. Gill's proposals, as set forth on the website, would expand Medicare to cover all Americans. Attached for your convenience are excerpts from the 2004 website concerning Dr. Gill's statements on Health Care Expenses.

Unlike federal candidates, independent political organizations do not have a "right to command the use of broadcast facilities." *See CBS v. DNC*, 412 U.S. 94, 113 (1973). Because you need not air this advertisement, your station bears responsibility for its content when you do grant access. *See Felix v. Westinghouse Radio Stations*, 186 F.2d 1, 6 (3rd Cir.), *cert. denied*, 314 U.S. 909 (1950).

Moreover, you have a duty "to protect the public from false, misleading or deceptive advertising." *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C.2d 623 (1961). Failure to prevent the airing of "false and misleading advertising" may be "probative of an underlying abdication of licensee

responsibility” that can be cause for the loss of a station’s license. *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978).

This advertisement is false, misleading, and deceptive. We ask that you refuse to continue to air this advertisement.

I can be reached at (312)781-2806 if you have any questions regarding this letter. Please contact me to inform me of your decision. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Dorf", written over a horizontal line.

Michael C. Dorf

Enclosure

AAN Advertisement

American Action Network – 9/14/12 – Radical Ideas

V/O: David Gill supported the failed stimulus. (screen: Project Vote Smart) And government funding of companies like Solyndra which lost a half a billion of our tax dollars. (screen: The Washington Post, 8/2/2012).

V/O: Now Gill wants a single-payer health plan (screen: The Chicago Tribune 2/24/2012) more radical than Obamacare.

V/O: Gill would eliminate Medicare (screen: David Gill for Congress 2004 website), put bureaucrats in charge of healthcare decisions and add a new 2% tax to pay for it (screen: Physicians for National Health Program). Costing families \$1,000 a year.

V/O: David Gill: radical ideas we just can't vote for.

V/O: Paid for by the American Action Network

Excerpts from Gill for Congress 2004 Website

Issue: Health Care Expenses

How is a National Health Care Plan less Expensive?

A National Health Care Plan is simply a single-payer insurance plan that saves money by cutting down on HMO and insurance industry profits and overhead expenses. This is not socialized medicine, the Federal Government would not dictate how medicine is practiced, as the for-profit HMO's and insurance industry have done for so long.

Inflated CEO salaries raise overhead:< In 2002, the highest paid executive was former Oxford Health Plans CEO Norman C. Payson, who was paid a salary of \$76 Million. The average of the top 20 CEO's incomes was over \$15 Million. It is no wonder that average people cannot get proper health care when overhead expenses like this account for 20-30% of our health care expenditures.

We must move to a plan that covers people and is not focused on profiteering.

How is Dr. Gill's plan more economical?<afford.jpg>

The plan that I am proposing would cost businesses a 7% payroll tax; this figure would be reduced if we eliminate the Bush/Tim Johnson tax cuts for those earning a quarter of million dollars per year or more. Currently, business owners pay an average of 8.5% of payroll salaries for employee health care plans and small businesses can pay up to 25% of payroll expenses. A Single-payer system lets business owners know exactly what they will be paying for employee insurance.

My plan is much less expensive for individuals. A 2% tax paid by individuals would replace all costs currently incurred by insurance premiums, co-pays and deductibles. The cost for the average family would be \$760/year. This would result in substantial savings for most families who typically pay between \$1,200-\$15,000 per year in combined costs under our current system.